

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-9, drawn to a textile product.

Group II, claim(s) 22-33, drawn to a process of making.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical feature of applying a three-dimensional pattern on a substrate web is known as shown by GB 2133273 A, therefore, it is not a contribution to the art. During a telephone conversation with Mr. John E. Vick on December 21, 2007 a provisional election was made without traverse to prosecute the invention of group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 22-33 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

4. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by McQuiggin (GB 2133273 A).

McQuiggin discloses a composite material comprising a fabric 10 with a plurality of discrete areas 11 of plastics material and a translucent coating 12 of foamed plastics material, the foamed coating may be a mixture of acrylic and polyurethane emulsions. The fabric layer 10 may be made of woven alone or in combination with spun staple or continuous filament. The dots 11 display a pattern. (Abstract; Figure 1) The reference teaches applying the discrete areas of plastic material by a rotary screen coating. (Page 1, lines 61-63) The reference teaches that dots cover 36% of the surface area. (Page 1, line 75)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McQuiggin (GB 2133273 A) in view of HALLEY et al. (US 2002/0197924 A1).

McQuiggin fails to teach the use of polyurethane, polyvinyl acetate and/or a vinyl acetate copolymer in the three-dimensional pattern.

HALLEY et al. relates to a composite lining material that comprises a flexible substrate (2), a fabric (4) secured to a first side of the substrate (2). A second side of the substrate (2) is provided with an abrasion resisting discontinuous layer (10) made up of a plurality of discrete abrasion resisting polymeric dots (12). The dots (12) prevent abrasion of the flexible substrate (2). (Abstract) The reference teaches the use of polyurethanes as one of the possible materials to form the dots (12). (Refer to [0040]) The percentage coverage of the surface of the flexible substrate 2 by the polymeric dots 12 is in the region of 20-80%. [0045]

It would have been obvious to one having ordinary skill in the art to use polymers such as polyurethane to form the dots in the composite of McQuiggin motivated by the desire of producing an abrasion resisting layer that comprises a discontinuous pattern of abrasion-resisting polymeric material that is in itself sufficient to provide abrasion resistance and durability without the need to apply the conventional inner liner as disclosed by HALLEY et al. [0020]

With regards to claims 4-9, although the prior art of McQuiggin in combination with the teachings of HALLEY et al. does not explicitly teach the claimed properties of mass loss, substrate destruction, pilling in an abrasion test after 50,000 Martindale abrasion cycles, it is reasonable to presume that these properties are inherent to the composite of the prior art of record. Support for said presumption is found in the use of like materials (i.e. a composite made of similar materials in which the pattern is applied to provide abrasion resistance to the composite). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties in an abrasion test would obviously have been

present once the product from the combination of McQuiggin and HALLEY et al. is provided. Note In re Best, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Norca L. Torres-Velazquez/
Primary Examiner, Art Unit 1794

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